IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 1274/2006

SHEHAZAD Vs. STATE OF RAJASTHAN & ORS.

DATE: 18.01.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. Sanjay Sharma for
Mr. Rajesh Goswami for the petitioner.
Mr. Ashwani Kumar Sharma, P.P. for the State.

****

In brief the facts of the case are that the petitioner-complainant Shehazad filed a compliant at Police Station Kotwali on 08.10.2000, wherein allegations were levelled against the accused-respondents, on which FIR No. 507/2000 was registered for the offence under Sections 452, 323 an 341 IPC and investigation commenced. After completion of investigation, police submitted a charge-sheet before the Court before the trial Court and the trial Court has framed charges for offence under Section 452 and 323 IPC against the accused-respondents, who denied the same and claimed trial. The trial Court after hearing the parties, convicted the accused-respondents under Sections 452 and 323 IPC vide its judgment dated

22.01.2003, against which each of the accused-respondent preferred appeal before the Additional Sessions Judge No.1, Jaipur City, Jaipur and the Appellate Court while accepting their appeals, acquitted both the accused-respondents from the charges of offence under Sections 452 and 323 IPC vide its judgment dated 28.08.2006.

The said judgment dated 28.08.2006 is under challenge in the present revision petition filed by the petitioner under Section 397 r/w Section 401 Cr.P.C. on the ground that the Appellate Court while passing the order of acquittal has committed an error and observed that the story narrated by the prosecution as well as the complainant is not at all trustworthy and thus, the Appellate Court failed to consider the definition of Sections 452 and 323 IPC and observed that the offence under the aforesaid Sections is not made out against the accused-respondents and acquitted them from the charges under Sections 452 and 323 IPC.

Having considered the rival submissions of the respective parties and upon careful perusal of the relevant record as also the impugned judgment passed by the Appellate Court and after properly appreciating the evidence of the witnesses, it appears that the Appellate Court has thoroughly consider the case and

its record as well as the Site Plan and found that the prosecution has utterly failed to prove its case and after examining the evidence of PW1 to PW5 and DW2, contradictions in the statements of the witnesses regarding the incident are found and, therefore, the Appellate Court while quashing and setting aside the judgment of the trial Court dated 22.01.2003, observed that the trial Court has not properly considered the facts and without properly appreciating the evidence of the witnesses adduced by the prosecution as well as by defence, has held the accused-respondents guilty for the offence under Sections 452 and 323 IPC, therefore, while accepting the appeals of the accused, acquitted both the accused respondents from the aforesaid charges.

I find no illegality of error in the impugned judgment dated 28.08.2006 passed by the Appellate Court and no interference whatsoever is required by this Court.

Consequently, the revision petition fails and the same is hereby dismissed.

Record be sent back forthwith.

(K.S. RATHORE),J.

/KKC/